

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

DOCKET	
99-AFC-4 C	
DATE	NOV 06 2002
RECD.	NOV 18 2002

In the Matter of:
MOSS LANDING POWER PROJECT

) Docket No. 99-AFC-4C
) Order No. 02-1106-01(a)
)
)
)

Petition for Amendment to Condition of
Certification LAND-1: to remove the
County of Monterey as the recipient of the
public access easement and associated
improvement funds, along with
maintenance and liability responsibilities

) COMMISSION ORDER APPROVING
) CONDITION AMENDMENT
)

On October 2, 2002, Duke Energy North America, LLC, submitted a Petition to Amend land use Condition of Certification Land-1 to remove the County of Monterey as the recipient of a public access easement. Duke Energy will establish the coastal access for the public and install and maintain a boardwalk. The project owner, in consultation with the California Coastal Commission, shall plan, design, construct and maintain a boardwalk and other trail improvements to provide improved coastal access along the adjacent beach area in a manner protective of the existing sensitive dune habitat. This will be done within 18 months of commercial operation.

At a regularly scheduled Business Meeting on November 6, 2002, the Commission considered staff's analysis and approved the Petition and the proposed revised condition in accordance with Title 20, section 1769(a)(3) of the California Code of Regulations.

COMMISSION FINDINGS

Based on staff's analysis, the Energy Commission concludes that the proposed changes will not result in any significant impact to public health and safety, or the environment. The Energy Commission finds that:

- A. There will be no new or additional unmitigated significant environmental impacts associated with the proposed changes.
- B. The facility will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources code section 25525.

- C. The change will be beneficial to the public and the applicant by creating an alternative method to achieve coastal public access.
- D. Per 1769 3(D) there has been a substantial change in circumstances since the Commission certification justifying the change: On September 10, 2002 the Monterey County Board of Supervisors voted not to accept the public access easement, nor to accept the one hundred thousand dollars (\$100,000) for construction of the boardwalk as provided for in Section 2 of the Condition.

ORDER

The California Energy Commission hereby approves the Duke Energy North America, LLC, Petition to Amend Land Use Condition of Certification Land-1 to allow for the removal of the County of Monterey as the recipient of a public access easement and associated funds for a boardwalk and trail improvements.

REVISIONS TO EXISTING CONDITIONS OF CERTIFICATION

(Added text is underlined; deleted text is shown in ~~strike through~~.)

LAND-1 To help promote coastal access adjacent to the project site and to satisfy Section 25529 of the Warren-Alquist Act, the project owner shall:

- (1) Provide ~~Monterey County with a public access easement over a portion of the land lying above the project's outfall structure and to the west of Sandholt Road. The easement shall be in a form and content acceptable to Monterey County. The project owner, in consultation with Monterey county and the California Coastal Commission, shall determine the exact alignment and width of the easement after establishing appropriate buffer areas to ensure public safety and to allow necessary maintenance activities of the outfall structure, including the surge chambers.~~
- (2) In consultation with the California Coastal Commission, Provide one hundred thousand dollars (\$100,000) for the purposes of improving coastal access in the vicinity to the project's outfall structure. These funds shall be exclusively used for the planning, design, and construction of and maintain for the life of the power plant, a boardwalk and other trail improvements to provide improved coastal access including access right of entry over the easement public access provided in paragraph #1 above, as well as for improving and maintaining lateral access along the adjacent beach area in a manner protective of the existing sensitive dune habitat. In the event that a nearby site may provide an ecologically or recreationally preferable alternative for a similar style access enhancement, the California Energy Commission CPM in consultation with the Coastal Commission staff will review said alternative, and reassign designated funds accordingly.

Verification: Within 18 months of commercial operation, ninety (90) days after the start of construction of the project, the project owner shall provide to the Energy

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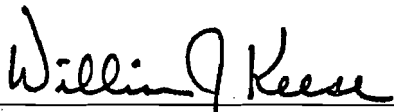
Commission Compliance Project Manager (CPM) for approval the following: A public access easement over a portion of the project's outfall to Monterey County, with a copy of the easement forwarded to evidence that the coastal access has been established and that a boardwalk has been installed. ~~the Energy Commission Compliance Project Manager (CPM).~~

- ~~Deliver a check to the California Energy Commission in the amount of \$100,000 to be placed into a special account for the planning, design, and construction of the boardwalk.~~

IT IS SO ORDERED.

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND
DEVELOPMENT COMMISSION

Date: November 6, 2002



WILLIAM J. KEESE
Chairman